

JAMES V. ORBE

IBLA 74-258

Decided August 16, 1974

Appeal from a decision by the Wyoming State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offer W 44235.

Affirmed.

Notice—Regulations: Generally

All persons dealing with the Government are charged with knowledge of duly promulgated regulations.

Administrative Practice—Oil and Gas Leases: Applications: Generally—Oil and Gas Leases: Applications: Sole Party in Interest

Where an oil and gas lease offer filed on a drawing entry card in a simultaneous filing procedure contains the name of an additional party in interest but the separate statement of interest, copy or explanation of the agreement among the parties, and evidence of qualifications of the additional party is not filed within the time required by 43 CFR 3102.7, the offer must be rejected.

APPEARANCES: Octavius A. Orbe, Esq., of Orbe and Nugent, Ridgewood, New Jersey, for appellant.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

James V. Orbe has appealed from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated March 4, 1974, rejecting his noncompetitive oil and gas lease offer W 44235 for the reason

that the statement of interest, required by 43 CFR 3102.7 to be signed and filed by all parties in interest in the offer, showing the nature and extent of the parties' interest in the lease and evidence of qualifications to hold such lease interest, was not filed.

On January 24, 1974, James V. Orbe executed and submitted to the Wyoming State Office, BLM, a lease offer drawing card for land designated as Parcel 95 for the January 1974 drawing of lands available for the leasing. In the drawing his offer drew first priority for the parcel. On the reverse side of the card, Orbe named "Eleanor F. Orbe 1/2 interest" as a party in interest. The reverse side of the lease offer has the following notice conspicuously printed, "NOTE: Compliance must be made with the provisions of 43 CFR 3102." A subdivision under that subpart of the departmental regulations, 43 CFR 3102.7, provides:

\* \* \* If there are other parties interested in the offer a separate statement must be signed by them and by the offeror, setting forth the nature and extent of the interest of each in the offer, the nature of the agreement between them if oral, and a copy of such agreement if written. All interested parties must furnish evidence of their qualifications to hold such lease interest. Such separate statement and written agreement, if any, must be filed not later than 15 days after the filing of the lease offer.

The separate statements of interest, etc., were not filed in this instance.

Appellant, in essence, maintains that his drawing card disclosed the interest of Eleanor F. Orbe, but her signature was lacking, and this could have been remedied had they been timely notified. He argues further that inasmuch as no one, other than the offerors, have been adversely affected by the alleged deficiency, they should be given the opportunity to correct it and the offer reinstated.

The regulations referred to on the reverse side of the drawing entry card and quoted above clearly prescribe the requirements. In any event, all persons dealing with the Government are charged with knowledge of duly promulgated regulations. 44 U.S.C. §§ 1507, 1510 (1970); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380, 384-85 (1947). The regulation applicable here is a duly promulgated

regulation. The reference on the card is to aid an offeror to find the pertinent regulations, but does not limit his duty to comply fully with them. The offer was rejected not because the other party in interest failed to sign the drawing card, but because they did not sign a separate statement of interest, furnish evidence of the additional party's qualifications and otherwise meet the requirements of 43 CFR 3102.7. Rejection of the lease offer for failure to comply with the requirements of the cited regulation is mandatory. Ross I. Gallen, 15 IBLA 86 (1974); W. D. Girand, 13 IBLA 112 (1973); Robert L. Evans, 10 IBLA 236 (1973). The regulations do not require the State Office to notify applicants of such deficiencies.

With regard to appellant's second contention, the regulations provide for the drawing of three entry cards for each numbered leasing unit, and the order in which they are drawn fix the order in which the successful drawee will be determined. 43 CFR 3112.2-1(a)(4). Where the first drawn offer is rejected by reason of deficiencies, the rights of others, if qualified, intervene because consideration must be given to the offer having next priority. Where none of the drawees qualify, the regulations provide that the lands in the leasing unit are to be included in a subsequent list of lands available for filing under the simultaneous drawing procedure. 43 CFR 3112.5-1. Accordingly, the deficiencies may not be corrected after the 15 day period allowed for filing has expired.

Under current procedures, the first drawee qualified to receive a lease of the particular leasing unit, is given notice that the first year's rental is due. The fact that appellant of his own accord tendered advance rentals does not create in him a right to a lease. The advance rentals will be returned to appellant.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

---

Anne Poindexter Lewis  
Administrative Judge

We concur.

---

Joseph W. Goss  
Administrative Judge

---

Edward W. Stuebing  
Administrative Judge

